IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

ANTHONY LEON SUMMERS §

VS. § CIVIL ACTION NO. 1:10cv709

BRAD LIVINGSTON, ET AL.

ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Anthony Leon Summers, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit against Brad Livingston, Greg Abbott, Richard K. Alford, John M. Moriarty and Keith Clendennen.

The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the lawsuit be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

As more than three of plaintiff's prior lawsuits have been dismissed as frivolous and for failure to state a claim, 28 U.S.C. § 1915(g) provides that he may only proceed with a lawsuit on an *informa pauperis* basis if his complaint demonstrates he was in imminent danger of serious physical injury at the time he filed his lawsuit. While plaintiff's allegations are serious, he has not provided factual specifics concerning his alleged mistreatment. Further, his allegations give no indication that any of the named defendants had any involvement with his mistreatment or were aware of the mistreatment. *See Bell v. Livingston*, 356 F.App'x 715, 717 (5th Cir. 2009) (affirming dismissal

under Section 1915(g) where pleadings did not demonstrate the named defendants had any personal involvement with the allegations in the complaint). As a result, the court is unable to conclude plaintiff was in imminent danger of serious physical injury as a result of the actions of the individuals named as defendants in this lawsuit. Plaintiff has therefore failed to overcome the bar imposed by Section 1915(g).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

So ORDERED and SIGNED this 5 day of March, 2014.

Ron Clark, United States District Judge

Pm Clark